

REMARKS

Claims 1-36 are pending in this application. Claims 4-13 and 18-36 are withdrawn from consideration.

By this Amendment, claims 1 and 3 are amended to overcome the rejection under 35 U.S.C. §112, first and second paragraphs, claim 1 is further amended to overcome the rejections relying upon the applied references, claims 2, 4 and 5 are amended for conformity, and claims 18-20 are amended to correct a misspelling. No new matter is added by this Amendment. Support for the feature that m is an integer and is in the range of 1 to 4 as now recited in claim 1 can be found throughout the specification, for example in Example 10 where m is 1.

I. Rejection Under 35 U.S.C. §112

A. First Paragraph

Claims 1-3 and 14-17 were rejected under 35 U.S.C. §112, first paragraph, because the specification while being enabling for a compound of formula (I) and the pharmaceutically acceptable salts thereof, allegedly does not reasonably provide enablement for their derivatives, their analogs and their polymorphs. This rejection is respectfully traversed.

To expedite the prosecution of this application, Applicants have amended claim 1 to delete the recitation "their derivatives, their analogs, their tautomeric forms, their stereoisomers, their polymorphs." As admitted by the Patent Office, a compound of formula (I) as recited in claim 1 and the pharmaceutically acceptable salts thereof is enabled by the specification.

For the foregoing reasons, Applicants thus submit that claims 1-3 and 14-17 are enabled by the specification. Reconsideration and withdrawal of the rejection are thus respectfully requested.

B. Second Paragraph

Claims 1-3 and 14-17 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed.

The Patent Office first alleged that the term "novel" as recited in the claims is not appropriate, and that the term "pyrimidone" is not proper Markush language in a claim. The Patent Office recommend recited "a pyrimidone" throughout the claims. To expedite prosecution of the application, Applicants have amended claims 1-5, as well as claims 6-8, to recite "a pyrimidone" or "the pyrimidone," as suggested by the Patent Office.

The Patent Office then alleged that the recitation "carboxylic acid or its derivatives" is allegedly indefinite. Specifically, the Patent Office alleges that the language "such as," in the specification, before esters, amides and acid halides as examples of a derivative, is allegedly open language, and therefore does not provide the metes and bounds of the recited "derivative." Applicants respectfully disagree and submit that derivative refers to acids, amides and acid halides of a carboxylic acid. However, to expedite the prosecution of this application, Applicants have amended the claims to delete the term "or its derivatives." Applicants submit that this rejection is now moot.

The Patent Office also rejected claim 3, as it is allegedly not understood what is intended by the letter "b" in b5-Cyano-1-(4-methylphenyl)-4-(methylthio)-2-[4-(methylthio)phenyl]-6-oxo-1,6-dihydropyrimidine. Applicants respectfully point out that this is a typographical error, and Applicants have thus amended claim 3 to recite 5-Cyano-1-(4-methylphenyl)-4-(methylthio)-2-[4-(methylthio)phenyl]-6-oxo-1,6-dihydropyrimidine. See page 17, lines 3-4 of the specification.

For the foregoing reasons, Applicants submit that claims 1-3 and 14-17 are definite. Reconsideration and withdrawal of the rejection are thus respectfully requested.

II. Rejections Under 35 U.S.C. §102

A. Robev

Claims 1, 2, 14 and 15 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Robev, CAPLUS Abstract 88:22768 (1978) ("Robev"). This rejection is respectfully traversed.

The Patent Office alleges that Robev teaches the compound of formula (I) as recited in the present claims when m is 0 and R² is not present. Applicants respectfully disagree with the rejection.

Applicants respectfully point out that R⁵ and R⁶ have been amended to be the same or different and independently represent halogen, hydroxyl, nitro, cyano, azido, nitroso, amino, formyl, aralkyl, haloalkyl, acyl, alkoxy, aryloxy, aralkoxy, heteroaryl, heterocyclyl, monoalkylamino, dialkylamino, acylamino, alkoxycarbonyl, SR⁷, S(O)_pR⁸, alkoxyalkyl groups or COR⁹. Applicants submit that Robev does not teach or suggest a pyrimidone having R⁵ and R⁶ as recited in the present claims.

For the foregoing reasons, Applicants submit that Robev does not teach or suggest all of the features recited in claims 1, 2, 14 and 15. Reconsideration and withdrawal of the rejection are respectfully requested.

B. Briel

Claims 1, 2, 14 and 15 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Briel et al., CAPLUS Abstract 104 :148820 (1986) ("Briel"). This rejection is respectfully traversed.

The Patent Office alleges that Briel teaches the compound of formula (I) as recited in the present claims. Applicants respectfully disagree.

Similar to Robev, Applicants submit that Briel does not teach or suggest a compound of formula (I) having R⁵ and R⁶ that may be the same or different and independently represent

halogen, hydroxyl, nitro, cyano, azido, nitroso, amino, formyl, aralkyl, haloalkyl, acyl, alkoxy, aryloxy, aralkoxy, heteroaryl, heterocyclyl, monoalkylamino, dialkylamino, acylamino, alkoxycarbonyl, SR^7 , $S(O)_pR^8$, alkoxyalkyl groups or COR^9 .

For the foregoing reasons, Applicants submit that Briel does not teach or suggest all of the features recited in claims 1, 2, 14 and 15. Reconsideration and withdrawal of the rejection are respectfully requested.

C. Yokoyama

Claims 1, 2, 14, and 15 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Yokoyama et al, CAPLUS Abstract 107:7151 (1987) ("Yokoyama"). This rejection is respectfully traversed.

The Patent Office alleges that Yokoyama teaches the compound of formula (I) as recited in the present claims when m is 0 and R^2 is not present. Applicants respectfully disagree with the rejection.

The compound of formula (I) requires that A be bonded to a nitrogen of the pyrimidone. However, when m is 1, the phenyl represented by A would be substituted. Applicants submit that Yokoyama does not teach a substituted phenyl directly bonded to a nitrogen of the pyrimidone.

Moreover, as with Robev and Briel, Applicants submit that Yokoyama does not teach or suggest a compound of formula (I) having R^5 and R^6 that may be the same or different and independently represent halogen, hydroxyl, nitro, cyano, azido, nitroso, amino, formyl, aralkyl, haloalkyl, acyl, alkoxy, aryloxy, aralkoxy, heteroaryl, heterocyclyl, monoalkylamino, dialkylamino, acylamino, alkoxycarbonyl, SR^7 , $S(O)_pR^8$, alkoxyalkyl groups or COR^9 .

For the foregoing reasons, Applicants submit that Yokoyama does not teach or suggest all of the features recited in claims 1, 2, 14 and 15. Reconsideration and withdrawal of the rejection are respectfully requested.

D. Mukherjee

Claims 1, 2, 14 and 15 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Mukherjee et al., CAPLUS Abstract 128:308465 ("Mukherjee"). This rejection is respectfully traversed.

The Patent Office alleges that Mukherjee teaches the compound of formula (I) as recited in the present claims when m is 0 and R² is not present. Applicants respectfully disagree.

As with the other applied references described above, Applicants submit that Mukherjee does not teach or suggest a compound of formula (I) having R⁵ and R⁶ that may be the same or different and independently represent halogen, hydroxyl, nitro, cyano, azido, nitroso, amino, formyl, aralkyl, haloalkyl, acyl, alkoxy, aryloxy, aralkoxy, heteroaryl, heterocyclyl, monoalkylamino, dialkylamino, acylamino, alkoxycarbonyl, SR⁷, S(O)_pR⁸, alkoxyalkyl groups or COR⁹.

For the foregoing reasons, Applicants submit that Mukherjee does not teach or suggest all of the features recited in claims 1, 2, 14 and 15. Reconsideration and withdrawal of the rejection are respectfully requested.

III. Rejoinder

As pointed out by the Patent Office, upon allowance of product claims, process claims which depend from or otherwise include all of the limitations of the product claims should be entered and similarly allowed. MPEP §821.04. As such, upon allowance of product claims 1-3 and 14-17, Applicants submit that at least claims 4-8 and 18-36 directed to the process of making and using the pyrimidone of formula (I) should be rejoined and similarly allowed.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-36 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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